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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,562	10/20/2003	Larry John Chernoff	Chernoff-001	2395
34111	7590	05/17/2006	EXAMINER	
Bay Area Patent Group, LLC 13575 58TH ST. NORTH SUITE 175 CLEARWATER, FL 33760			CINTINS, IVARS C	
			ART UNIT	PAPER NUMBER
			1724	

DATE MAILED: 05/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/688,562

Applicant(s)

CHERNOFF, LARRY JOHN

Examiner

Ivars C. Cintins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4,5,7-12,14-19 and 21 is/are rejected.
- 7) ☒ Claim(s) 6,13 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 15 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The terms "said first valve," "said second valve," and "said third valve" (claim 15, lines 1-2) lack antecedent basis in the claims, and are therefore indefinite. Claim 21 is indefinite because it depends from itself. Applicant is advised that an amendment changing the dependency of claim 21 from itself to claim 20 would overcome this portion of the rejection.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 5, 7-9, 12, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hughes (U.S. Patent No. 6,521,132) in view of Avery et al. (U.S. Patent No. 5,022,994; hereinafter "Avery"). Hughes discloses a gravity feed brining system in a water conditioner of the type recited, which system includes a drain valve 14 connected to a drain port of a pressure vessel containing treatment material. Accordingly, this primary reference discloses the claimed invention with the exception of the recited programmable processor and sensor. Avery discloses a similar fluid treatment system, and teaches using a programmable processor coupled to a flow sensor and a water quality sensor (i.e. conductivity sensor) in order to initiate

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regeneration of spent treatment media (see Figs. 7 and 9; and col. 16, lines 6-14). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the system of Hughes with the programmable processor and sensors of Avery, in order to better control the treatment and regeneration operations in this primary reference system.

Claims 10, 11 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hughes and Avery as applied above, and further in view of Heskett (U.S. Patent No. 3,960,721). The modified primary reference discloses the claimed invention with the exception of the separate trays of treatment material. Heskett discloses a similar fluid treatment apparatus, and teaches utilizing a plurality of layers of diverse treatment media (see col. 7, lines 45-49 and 67-68). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the system of the modified primary reference with layers (trays) of diverse treatment media, as suggested by Heskett, in order to obtain the advantages disclosed by this secondary reference for the system of the modified primary reference.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hughes and Avery as applied above, and further in view of Harting (U.S. Patent No. 2,744,868). The modified primary reference discloses the claimed invention with the exception of the recited air injector. Harting discloses a similar fluid treatment apparatus, and teaches utilizing an air injector (see col. 1, lines 40-41; and col. 3, lines 4-5) in order to reclassify the treatment material in the apparatus. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the system of the

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modified primary reference with an air injector, as suggested by Harting, in order to reclassify the treatment material in this modified primary reference system.

Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hughes and Avery as applied above, and further in view of Scholer (U.S. Patent No. 2,832,373). The modified primary reference discloses the claimed invention with the exception of the recited overflow drain. Scholer discloses a similar gravity feed brining system, and teaches providing a brine tank **22** with an overflow drain **81**. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the system of the modified primary reference with a brine tank overflow drain, as suggested by Scholer, in order to remove any excess brine from the brine tank in this modified primary reference system.

Claims 6, 13 and 20 are objected to as being dependent upon a rejected base claim, but would be allowed if rewritten in independent form to include all of the limitations of the base claim and any intervening claims because the references of record do not teach or fairly suggest a gravity feed brining system having a valved manifold of the type recited.

Applicant's arguments filed August 5, 2005 have been noted and carefully considered, but no longer appear to be relevant in view of the new grounds of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to I. Cintins whose telephone number is 571-272-1155.

The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00

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PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Duane Smith, can be reached at 571-272-1166.

The centralized facsimile number for the USPTO is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ivars C. Cintins
Primary Examiner
Art Unit 1724

I. Cintins
May 15, 2006